

# **TOWN OF NEW WINDSOR**

## **OFFICE OF THE PLANNING BOARD**

**Telephone: (845) 563-4615**

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### **TENTATIVE AGENDA**

**Wednesday - March 27, 2002 7:30 Pm**

#### **CALL TO ORDER**

#### **ROLL CALL**

#### **PUBLIC HEARING:**

1. **C. Trainor Sub. & Lot Line Change (02-04)** Toleman Road (Trainor)  
Proposed 4-lot residential subdivision and lot line change
2. **Vantage Construction Subdivision (01-55)** Riley Road (Tarolli) Proposed 20-lot residential subdivision.
3. **Galella Site Plan (02-03)** RT. 9W –Proposed construction of 4,950 s.f. retail building.

#### **REGULAR ITEMS:**

4. **Gerbes, Richard Lot Line Change (02-07)** - Melrose Ave. – Proposed 10' lot line change.
5. **Butler Subdivision (01-25)** Rt. 207 (Brady) –Proposed 4-lot residential subdivision.
6. **Van Leeuwen - Beattie Road Subdivision (02-05)** Beattie Road (Pietrzak & Pfau) Proposed 2-Lot Residential Subdivision
7. **Sabini Site Plan (02-06)** – Temple Hill Road (Pietrzak & Pfau)  
Proposed conversion of house to commercial use.

#### **DISCUSSION:**

8. **Mrs. Williams** – Forge Hill Road – Property In Historic Corridor

#### **CORRESPONDENCE:**

9. **Delconte Sub. (01-38)** Request for two 90-day extensions of conditional approval
10. **Mid Hudson Holding**
11. **Blossom Heights/Windsor Woods Subdivision**
12. **All Family Taxi**

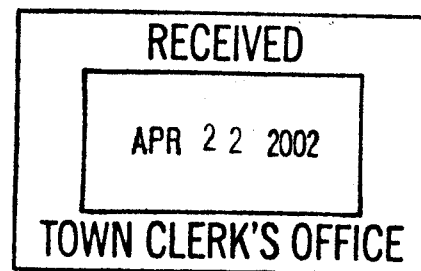
#### **ADJOURNMENT**

**(NEXT MEETING –APRIL 10, 2002)**

## TOWN OF NEW WINDSOR

## PLANNING BOARD

MARCH 27, 2002



MEMBERS PRESENT: JAMES PETRO, CHAIRMAN  
JIM BRESNAN  
RON LANDER  
JERRY ARGENIO  
THOMAS KARNAVEZOS

ALSO PRESENT: ERIK DENEGA  
PLANNING BOARD ENGINEER

MICHAEL BABCOCK  
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.  
PLANNING BOARD ATTORNEY

MYRA MASON  
PLANNING BOARD SECRETARY

REGULAR MEETING

MR. PETRO: I'd like to call to order the March 27, 2000 meeting of the Town of New Windsor Planning Board. Please stand for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited.)

PUBLIC HEARING:

C. TRAINOR SUBDIVISION & LOT LINE CHANGE (02-04)

MR. PETRO: Our procedure for the public hearing in case there's public here to speak is the board reviews the application first during the application then I will call on someone from the audience to come forward, state your name and address and your concerns. Proposed 4 lot subdivision and lot line change.

Mr. Dan Yanosh appeared before the board for this proposal.

MR. PETRO: This application proposes subdivision and lot lane changes to create three new single family residential lots and reconfigure two existing lots. The application was previously reviewed at the 27 February, 2002 planning board meeting and is before the board for a public hearing at this meeting. It's in an R-1 zone which is permitted by right. Mr. Yanosh, how are we tonight?

MR. YANOSH: Again, three separate tax lots, tax lot number 25 which has 0.8 acres, small little one here with existing house on it, tax lot 15.211 and remaining parcel tax lot 15.212, total of 10.2 acres. Tax lot 25 has existing single-family house on it, remaining lot also has single-family house plus two trailers in the back of the property. Proposal is to add to tax lot 25, give a little more road frontage and leave the remaining house as lot number 3, proposed three new houses lot number one to the south 2.28 acres, lot number 2, 2.26 acres, lot number 3 with the existing house trailers are to be removed 2.3 acre lot, number 4 in the back 2.8 acres and tax lot number 25, like I said, was going to be 1.3 acres altogether. Lot number 4, 25 and 3 will be serviced by private road, which is there right now. We propose to upgrade that to a private road specifications as per the board's request.

MR. PETRO: How is the percolation out in this area? We have been having some trouble out in Toleman Road out there?

MR. YANOSH: Sheet 2, Lou Cascino is the engineer for the project, he was out there a week or so ago, we have 17 minute percs, 18 minute and another 10 minute perc. What's shown on the plans is designs for a four bedroom

house, if they want to go that high.

MR. ARGENIO: Is the road a separate lot?

MR. YANOSH: No, it will be incorporated in all the lots, in lots number 3 and tax lot 25 property line will split right down the middle through there and it will be on both sides.

MR. PETRO: We have a lot to do tonight so I'm going to move things along a little bit. March 13, 2002, 4 addressed envelopes containing the attached notice for agricultural district notices were sent out and also 38 addressed envelopes containing attached notice of public hearing were mailed. At this time, if someone is here, would like to speak for or against this application or just want to make comments, be recognized by the Chair, come forward, state your name and address.

MR. RUBEN: My name is Mark Ruben, I got one of the notices you mentioned, I'm at 8 Little Brook Court, which is perhaps about a hundred feet away from what you have here. I'd like to speak against the plan, proposal, on the basis of several things. Number one, there are three new septic systems that we replaced in here and all of these would be adding sewage waste water down into our current water table that we all draw from. Our back yards are just 50, 75 feet away from these, this is going to very possibly damage our area, damage our water, possibly be a problem. There's also the problem of three additional wells being placed in here. I hope I'm using terms that are too abstract, the cones of depression formed by three additional wells in the actual water table could affect our wells, we have had a number of people in our development who have had to re-drill our wells deeper, this will continue to perpetuate the problem, add to the problem causing the imposition upon us to possibly have to re-drill our wells. Those are two major concerns. A third major concern is for the aesthetics of the area, somehow we have developed this business envelope shaped or candy bar shaped lot size which people seem to be using, there's nothing aesthetically pleasing about them at all. I see them around, these long skinny lots about 50, 100 feet wide and 3,000 feet deep and you place one house on them. All the houses are stuck next to each other, it doesn't leave a very nice legacy for future dwellers in this area to have to look at. So I

don't think it's an aesthetically pleasing layout.

MR. PETRO: He can lop off half the back of the lot and still have the size of lot which would be adequate so it's just extra land added to the lot.

MR. RUBEN: Understood. There are many of these on Toleman that don't appear to me to be aesthetically pleasing. I don't see that as an attractive addition to our area, that is perhaps a much lesser point than the problem with the wells, problems with the septic systems, this additional lot back here, again, there's another thing that I feel should be pointed out, for some reason, lot of people are wanting to put houses in their back yards. Again, it's not a pleasing appearance, it doesn't seem to add anything attractive to the area, it doesn't leave a nice appearance for future generations to have to live with, so you have a house with another house sitting in the back yard.

MR. PETRO: He's trying to utilize the land behind the house.

MR. RUBEN: I do understand people want to maximize their profits from land sales which sacrifices the needs or interests or the best interests of the people of the future. I think it would be far better served if it was only a single house here in this lot that would reduce the drain on the water table down below and also reduce the amount of sewage that was placed out there. And I would suggest no house be placed back here and this lot just be enlarged to include that, again, with the thought in mind of aesthetically making a more pleasing appearance, reducing the burden placed upon the land from the sewage and also from the drain on the water table.

MR. PETRO: These are quite large lots, as it stands. Are they under the new zoning?

MR. YANOSH: Yes.

MR. PETRO: Your first two comments, although I hear it a lot obviously at the planning board would be basically the growth of an area, you don't want the wells, you don't want the septic. I would, my first question to you is what would you want the man to do with his land? It's a permitted use in the zone. If it was your father's land and he gave it to you, what

would you do? The argument that they're going to affect the water table, we go through this a lot here, it's just not a valid question to the planning board. Everyone has a right to drill a well. You owned a lot, your land, you have the right to the well the same as the next person. Whether or not it affects your well, I can't answer that. The septs have to meet the codes set forth by law and they have to meet a separation between the well and the septic system. He would, our engineer would never approve it and look at it, he certainly meets or exceeds those requirements, especially on the larger size lots. To help you along a little bit, the Town of New Windsor on October 3 of 2001 did change the zoning laws from one acre to in some instances with water and sewer from half acre to 80,000 feet, which is very close to two acres to try to cut down on the expansion that we seeing in this town, in every town. So we're trying to, we're thinking along the same lines about what you're saying, but we have to move with a legal means to do it. When someone comes in with an application and meets every requirement by the law, they are hereby permitted by right, he has a right by law to do what he's asking to do. We're working to review it, we're not here to say yes or no, but how. We're going to make sure the side lines are correct, the driveway, topo, the land, well separation and everything else of planning board requirements, not just arbitrarily saying remove one house, make one lot. If we did that to you, I'm sure you'd see an attorney, you'd sue and you'd win and we'd be wasting the taxpayers money. That's why we're reviewing it. The lots are over two acres, he certainly meets the requirements. I'm a little bit concerned with the septic systems, only because we have other applications recently that have been coming in and the perc has not been good. I don't believe they were at 100 percent tested accurately, and I think that I'm even considering requiring and giving permission to McGoe, Hauser & Edsall to start going along with the engineers at their expense, the applicant's expense, and watching and monitoring and approving the percolation test because we're having some systems, especially in Toleman that are not working in the clay, even though they're built to specs supposedly and that is a concern. So we may or may not do this on this one. He seems to have a pretty good perc, 17 minutes is not terribly bad. I don't know but we're gonna start monitoring that, it's something that we can do and make sure that they do work, the separation, you're

on the lands behind this. Where do you live?

MR. RUBEN: Over to the left.

MR. BABCOCK: Toleman Estates.

MR. PETRO: Septics, Mike, they have to be a certain distance from the property line?

MR. BABCOCK: Yes and they have done that.

MR. PETRO: So obviously, he's doing it here, he's meeting or exceeding that requirement. So you would have a proper separation to his property line and you should have one from your property line also. What's the number of feet?

MR. BABCOCK: Depends on whether it's downhill, but it's typically 100 feet unless it's downhill, they take into consideration the septic systems and wells on the adjoining properties, so they have already done that.

MR. ARGENIO: I think you're referring to property line offset on the septic field, weren't you?

MR. BABCOCK: I'm sorry,

MR. PETRO: Yes, he was concerned that the septic would be too close if he lives in the property next to it.

MR. BABCOCK: These are farther than ten feet, the requirements are ten feet. How far is that, Dan, off the property line, the last lot?

MR. YANOSH: Pretty close, probably 10 or 15, probably, I can shift that, make them shorter laterals to get it further away, that's no problem.

MR. PETRO: I didn't give you all the answers that you're looking for but we have to understand that this is the way it is, growth, there's going to be more growth, and you have Westchester, Orange, everything is going to keep going and we're looking at it now, I don't know about 20 years from now, the roads, I can't get out of my driveway in the morning, it's a pain in the you-know-what no matter where I go. But we're an administrative body, we administer the law to whatever the specifications are and that's our function here,

we're not going to change the law, we're not making the law so he's here by permitted right.

MR. RUBEN: In other words, the planning board has no input regarding the laws that define what he can or can't do?

MR. PETRO: Not if it's written in law, it would be a zoning law which he meets, these are single-family houses, which is permitted in the R-1, he's here by right of law. Now we have to look at the guidelines for R-1 and that's in the bulk table here, when he meets or exceeds those, we're on to the next subject and we just move along.

MR. RUBEN: I hope that the laws are appropriately written to safeguard. I heard on the radio that they are concerned down in Long Island that things that they dumped on the ground are now polluting severely the wells down there and the people's water supplies because someone didn't think 40 years ago. I hope that we're thinking now what's going to happen 20, 30 years from now because that's what a planning board should plan for, future generations that have to utilize.

MR. PETRO: We don't do it here, we do it with the Town Board, who actually makes the local laws. And a lot of us will meet and we have other meetings, we just changed a lot of the zoning laws, the larger lots, we went from some lots were even 12, 13,000 feet, we went to 80,000 feet, which is a pretty good jump. You can't be too unfair to the farmer who has the acreage who's counting on building some of the lots but we're trying to keep up with a lot of the items we're looking to the future to try and minimize the impact for all the new homes.

MR. RUBEN: If I may say one more thing when you put in homes about four or five bedrooms as this possibly suggested here, you realize you're not going to have an old couple in their 80's moving in, it will be young couples with two, three, four children, at published rates of approximately \$10,000 per child per year at school, three children in a home over the lifetime of those children in school is approximately \$400,000, so what you do is every time you plant one of the houses here, you place a tax burden upon all the members of the community, \$400,000, 500, half a million, while you collect two or three thousand a year which would take



about a hundred years to make up.

MR. PETRO: You're absolutely right, there is no question about it, every house that's built in New Windsor most anywhere is a loser for the town. You'll hear the Supervisor say all the time I hope another house is never built in the town. It's an absolute loser for schools, especially. But again, you're speaking to someone who can't do a thing about it and just at the wrong forum.

MR. RUBEN: Is there a forum where this can be presented? It's a shame that we're not looking at that.

MR. PETRO: Town Board. And further than the Town Board, would be the State of New York, sometimes we go by State guidelines also so--

MR. RUBEN: Thank you very much.

MR. LANDER: Question for you, Dan, topo on here?

MR. YANOSH: I left it off, I just noticed too.

MR. PETRO: Once we're done with the public, you're going to be done because get this back to Mark.

MR. BURKE: My name is Charles Burke, I live at 6 Little Brook Court and my lot is the lot that is right on the corner there and my concern simply was the septic, my well is not that far from the property line and it was just the location and where the plan is, I wanted to see.

MR. YANOSH: Do you know where it is exactly? We tried to look, you can show me later, we'll do it later.

MR. BURKE: My concern was the septic.

MR. PETRO: You should do a field visit with him, see where his well is cause seems to me you can move the septic forward and give you a better distance from his well. Do a site visit and do that.

MR. BURKE: I appreciate that.

MR. PETRO: Anybody else want to speak? Motion to close the public hearing.

MR. BRESNAN: So moved.

MR. ARGENIO: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board close the public hearing for the C. Trainor and Sons subdivision on Toleman Road. Is there any further discussion? If not, roll.

ROLL CALL

MR. ARGENIO	AYE
MR. BRESNAN	AYE
MR. KARNAVEZOS	AYE
MR. LANDER	AYE
MR. PETRO	AYE

MR. PETRO: At this time, I will open it back up to the board for further comment. I don't think we have any further comment. Why don't you work on the plans, Dan, take Mark's comments, you're going to check out the well with this man here, try to move that forward, if you can, so you have plenty of room. Andy, do you have anything on the roads at this time or want to just go further?

MR. YANOSH: We have a draft copy of the maintenance agreement.

MR. KRIEGER: I'll look at it.

MR. PETRO: You're going to have to get the private road completion bond.

MR. YANOSH: No problem.

MR. PETRO: Motion for negative dec.

MR. LANDER: So moved.

MR. BRESNAN: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare negative dec under the SEQRA process for the C. Trainor and Sons. Is there any further discussion from the board members? If not, roll call.

## ROLL CALL

MR. ARGENIO	AYE
MR. BRESNAN	AYE
MR. KARNAVEZOS	AYE
MR. LANDER	AYE
MR. PETRO	AYE

MR. PETRO: We'll see you next time.

VANTAGE CONSTRUCTION SUBDIVISION (01-55)

MR. PETRO: Proposed 20 lot residential subdivision. Their project involves subdivision of 3 tax parcels into 19 lots. Plan was previously reviewed at the 26 September, 2001, 13 February, 2002 planning board meetings. It's before the board for a public hearing. I want to remind everybody also I believe this application is grandfathered in under the old zoning.

MR. MERCURIO: My name is Al Mercurio with the firm of Mercurio-Norton-Tarolli. Property consists of 17.809 acres. Vantage Construction, contract vendee, proposing 20 new building lots, 20 lots, two of which have existing dwellings on them. The other 18 would have proposed dwellings. We're proposing a town road, the lots will be supplied by public water and sewer. The property is in an R-3 zone, lots meet all the minimum, side and front yard requirements for this zone.

MR. PETRO: Lot 13 appears to justify compliance but I do not believe this is permitted. Do you have any information on that?

MR. BABCOCK: The definition of lot width is measured at your front yard setback. On these two lots, the front yard setback is on the narrow line, I'm not sure what they're saying they have for compliance. Are they adding the two front setbacks?

MR. LANDER: Which lot, Mike, 13?

MR. BABCOCK: We're on 13, yes, apparently, what they are doing is on lot 13, they're adding the front yard setback measurements on Riley Road and also on the other road adding those together off the cul-de-sac.

MR. BABCOCK: To get their lot width that's not, they can only get one.

MR. MERCURIO: The setback, the 35 foot, correct, measure 35 foot in this area right here, you would have 60 foot in width, that's the minimum width.

MR. BABCOCK: No, the road frontage is 60 feet, the lot width is different. Your lot width is 100 feet, road frontage is 60 feet.

MR. MERCURIO: So you're saying we'd have to have 100 foot?

MR. BABCOCK: Yes, it's measured at the front yard setback, that's why you put that instead of coming straight out, that's why you angled this lot coming out to the cul-de-sac to get your 60 feet.

MR. MERCURIO: Correct.

MR. PETRO: Mike, I don't want to spend a lot of time on it, deal with Mark Edsall, get it resolved, okay, all right. At this time, 16 addressed envelopes containing attached notice of public hearing were mailed out. If anyone would like to speak on behalf of this application or against it, come forward, state your name and address.

MR. PETRONELLA: My name is Frank Petronella, I live on Riley Road and I believe the lots they're going to subdivide is right in back of me and I tried to subdivide my property about 5, 6 years ago and I was turned down because of the sewer pumps, they can't handle the sewer. My property is, pumps up the street because the sewers were not accurate enough to serve more houses, I just want to point it out I have nothing against it.

MR. PETRO: You want to know how they're doing the count?

MR. PETRONELLA: Yes. Every time it rains this year, it's not too bad but this year heavy rain, my bathroom makes bubbles, feels like a hot tub. So I had several pumps put in, but I still, when it fills up, that's it, I have to wait ten minutes before I can flush it.

MR. LANDER: He's going to answer your question.

MR. MERCURIO: This property is substantially uphill higher in elevation than this gentleman's property. All these lots with the exception of lot 13 which needs to be pumped up to the cul-de-sac is gravity flow down to Riley Road.

MR. PETRONELLA: Anything from the top of the hill, everything gets pushed down to the manhole, then when it comes down to the manhole, gets pushed up over the hill, so now you've got all these extra sewage coming

in to the same manhole and when it rains, you can come over this and see the water come right out of the ground. I complained several times to the town, town says there's not much they can do about it, when it rains, this is the problem.

MR. ARGENIO: I think he's talking about a station of the town.

MR. BABCOCK: Do we have anything in the file from the sewer department on this?

MR. PETRO: No, there's no answer yet.

MR. MERCURIO: it would also be reviewed by DEC with approval of the sewer system so we cannot go before DEC until we have preliminary approval, we can't submit to them.

MR. LANDER: We don't have an answer why you were denied back then.

MR. PETRONELLA: I'm just pointing it out that the problem is there now already and they built three new houses on that part there.

MR. PETRO: They're going to be gravity fed down to the main line, you're at a pumping station. Correct? I don't think, they're not going into the pumping station.

MR. PETRONELLA: That's where everything goes.

MR. PETRO: Out in the street also.

MR. PETRONELLA: Up the street on this side up the street on this side, they all come down to the bottom.

MR. PETRO: Have Mark check the pumping station, might have to be upsized. He lives there, I'm sure he knows what's going on, that's one hot tub I wouldn't want to be in, I'll tell you that.

MR. PETRONELLA: The water comes up, I have to wait and sometimes I have to wait ten minutes before everything gets pushed out of the way and my toilet goes down. My next door neighbor across the street has the same problem last month so I'm sure he's gonna have more problems than I have. All right.

MR. PETRO: This lot 13, can we lose that lot? It's such a hooky lot and looks like you're really trying to get a lot in there, you know, we're not happy with the small lots to start with, but what's right is right, you were here and we're going along with it.

MR. MERCURIO: We'll look at it. Problem is there's a piece of property that does exist, we'll have to incorporate it into other lots, we'll talk to the applicant, see if he'll concede.

MR. LANDER: Do you have enough frontage to come out onto Riley Road?

MR. MERCURIO: Yes, but there's a steep grade coming off Riley, that's what our concern was for a driveway entrance.

MR. BABCOCK: And they don't have lot width on Riley Road.

MR. PETRO: Plenty of lots, if it was a major percentage of what you're doing, I wouldn't ask, but I don't think the one would make or break the subdivision.

MR. MERCURIO: We'll discuss it.

MR. PETRO: Tell him that the planning board is interested in seeing it go away. I think it would eliminate a lot of the applicant's problems, too, seems to be coming up, lot 13, lot 13. Topo information is still not indicated on sheet 2, database on aerials and actual field survey is required.

MR. MERCURIO: This is a field survey, this is actual property.

MR. LANDER: How is the sight distance in this area?

MR. MERCURIO: It's adequate in the area, that's why we swung the driveway all the way further south as we could.

MR. LANDER: 30 mile an hour zone here?

MR. MERCURIO: I believe it is.

MR. PETRO: Fire department says water main size not shown on plan, 8 inch diameter is required.

MR. MERCURIO: There is a ten inch main in the street existing, we'll note the size.

MR. PETRO: Follow through with that.

MR. MERCURIO: We're proposing 8 inch.

MR. LANDER: Between lots 3 and 4, we've got a drainage facility lot. Is that what we're calling it now? Where is this water going to end up, in this extra dry pond here?

MR. MERCURIO: That's correct.

MR. DIMARTINO: My name is Mike DiMartino, 499 Riley Road. I'm not familiar with the area cause I'm a new resident here, just wanted to find out, my primary concern was the drainage, even though that lot 13, I believe is behind my house relatively level, I just want to know what was going to happen with the drainage with that one house and I believe 30 foot easement, what's going to happen with that if he's going to come off the cul-de-sac?

MR. BABCOCK: What the Chairman has just asked them to do is possibly lose lot 13, consolidate lot 13 with 14 and probably 12 will be part of their lot.

MR. DIMARTINO: Just a question on the water line, I have 55 pounds at my house and I'm relatively 50 feet above the road elevation, what's the minimum pressure that's required for the town or Orange County or the Town of New Windsor?

MR. BABCOCK: It's much less than 55, I don't know what the number is, but it's much less than 55.

MR. DENEGA: 32 or 33, 32 I think.

MR. DIMARTINO: Minimum pressure even for fire flow?

MR. BABCOCK: Well, that's all been done, I don't know what they are, I couldn't tell you, you'd have to talk to the fire inspector's office, they can tell you what the fire flows are.



MR. DIMARTINO: That's it.

MR. PETRO: Well, he brings up another good point, if you lost lot 13, it would eliminate his problem with the drainage directly behind his house and any other concerns so the more we hear, I think 13 is an unlucky number. Anybody else for the public hearing? If not, I'll take a motion to close.

MR. BRESNAN: So moved.

MR. ARGENIO: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board close the public hearing for the Vantage Construction Corporation. Is there any further discussion from the board members? If not, roll call.

ROLL CALL

MR. ARGENIO	AYE
MR. BRESNAN	AYE
MR. KARNAVEZOS	AYE
MR. LANDER	AYE
MR. PETRO	AYE

MR. PETRO: At this time, I will open it up to the board again for further comment. I think we've made quite a few comments, you're looking for preliminary, but I want to see the lot be taken off and then Mark's comment number 1 would go, just go away, it wouldn't even exist anymore. And after that, I think you can come back, we don't have anything from the highway superintendent yet. You had to put the 8 inch main on the map, you're telling me the topo is actual, so I think when you come back, we can give you a preliminary, you can get your other work started.

MR. MERCURIO: Thank you.

MR. BABCOCK: Maybe I can suggest that you get ahold of John Aggio from the sewer department, talk about the sewer situation.

MR. MERCURIO: Okay, I have a note.

MR. BABCOCK: Okay.

GALELLA SITE PLAN (02-03)

Mr. Anthony Coppola appeared before the board for this proposal.

MR. PETRO: Proposes development of 4950 foot square foot office building on a 6.8 acre parcel on the west side of Route 9W. This plan was previously reviewed at the 13 February, 2002 planning board meeting and is before the board for a public hearing tonight. This project is located in an NC zone, permitted use by right, plan was forwarded to New York State DOT for review and comment, no response has been received to date.

MR. LANDER: Give us a location first.

MR. COPPOLA: This is on Route 9W on the southbound lane, just short of Broad Street, it would be just south of the old Stewart's Furniture building, which is now a doctor's office. So the general area to the rear to the west side is residential, to the south, there's also residential, to the north is commercial but it's zoned NC and the property next door is zoned NC. Basically, it's a pretty straightforward proposal, essentially 4950 square feet retail office building, it will be a single story building going to have one access on the southbound lane of Route 9W that will be on the south of the property. We meet all the zoning requirements for setbacks, for parking, we have total of 33 spaces and all the rest of the zoning requirements for bulk and height, height requirements and everything else we meet all those requirements. The biggest challenge in this site because it's kind of on the small side is the drainage, storm drainage we're able to work this out, fortunately, so that a hundred percent of the storm water from the roofs and the water from the new parking lot is gonna be able to be brought out through the subsurface system and we're going back out into 9W, we're setting two catch basins in our lot, third catch basin out in front of our lot in the DOT right-of-way and then a new 15 inch storm sewer down to there's an existing, it's a large catch basin down, I think it's 150 feet from the corner of the property.

MR. PETRO: Where don't you just put an underground system? Why are you putting all the catch basins in?

MR. COPPOLA: I'm not going to touch that.

MR. BABCOCK: Because he's in New Windsor. Is that where it crosses under 9W?

MR. COPPOLA: It's very large, I think it's 36 inch so this is kind of a wet area back over in here and I think wherever this comes from that's where the water leads and then down and out to the river.

MR. PETRO: That drains under there, there's a lot of water there.

MR. COPPOLA: Yeah, I think there is. So we have solved that problem, so that the neighbors will not be impacted at all by our pavement and our roof, any of the hard surfaces. We have screened the rear yard here that's shown in our landscaping schedule, we're not developing the rear, the parking is just going to kind of end adjacent to the corner of the building, so there will be no parking in the rear. All the parking will be on the front and the side.

MR. PETRO: From catch basin two to three and from three to the exit look at making that an 18 inch CMP because you're going to pick up a lot of water, I know that site.

MR. COPPOLA: Two to three?

MR. PETRO: And three to the end, I would size it up one shot.

MR. COPPOLA: Sure.

MR. PETRO: I'm not an engineer, but I think it makes good sense. This is a public hearing, 10 addressed envelopes were mailed out on March 13, 2002. If someone would like to speak for or against this application, be recognized by the Chair, come forward, state your name and address. Is there anyone here? Let the record show that no one's showed up to speak, therefore, I'll entertain a motion to close.

MR. BRESNAN: So moved.

MR. LANDER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board close the public hearing for

the Galella site plan.

ROLL CALL

MR. ARGENIO	AYE
MR. BRESNAN	AYE
MR. KARNAVEZOS	AYE
MR. LANDER	AYE
MR. PETRO	AYE

MR. BABCOCK: Could you clarify for us what you had said about the catch basins?

MR. PETRO: Catch basin two to three and three over to the exit 18 inch. Open it up to the board for further comment. Motion for a negative dec.

MR. BRESNAN: So moved.

MR. ARGENIO: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare negative dec for the Galella site plan. Is there any further comment? If not, roll call.

ROLL CALL

MR. ARGENIO	AYE
MR. BRESNAN	AYE
MR. KARNAVEZOS	AYE
MR. LANDER	AYE
MR. PETRO	AYE

MR. PETRO: Planning board requires that a bond estimate be submitted in accordance with Chapter 19 of the Town Code.

MR. LANDER: Anthony, how much higher is Parisi's property in the back than this property? Are we going to be looking down at this?

MR. COPPOLA: It's about the midpoint because the finished floor is 109 and you can see 106 there, so it just goes down, the low spot is really way down here, that's where the water is.

MR. PETRO: Highway approval on 1/30/02 and fire approval 1/29/02. Applicant should be directed to

submit a public improvement bond estimate to the town for review. What we can do? If you'd like, we can do a final approval subject to New York State DOT approval.

MR. COPPOLA: That would be perfect.

MR. PETRO: Motion to that effect.

MR. BRESNAN: So moved.

MR. ARGENIO: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant final approval to the Galella site plan on Route 9W, subject to the sizing of the pipe being upgraded and New York State DOT approval, the site plan bond and public improvement bond in place before the plan is signed. Do you understand all that?

MR. COPPOLA: Absolutely.

#### ROLL CALL

MR. ARGENIO	AYE
MR. BRESNAN	AYE
MR. KARNAVEZOS	AYE
MR. LANDER	AYE
MR. PETRO	AYE

REGULAR ITEMS:GERBES, RICHARD LOT LINE CHANGE (02-07)

Mr. Richard Gerbes appeared before the board for this proposal.

MR. PETRO: Proposed ten foot lot line change.

MR. GERBES: I live at 59 Melrose Avenue and what I want to propose to do is to reduce my lot by ten feet, a hundred by ten feet and shift it over to 610 Melrose Avenue which would be tax lot 16, I'm at tax lot 18.

MR. PETRO: Just want to read into the minutes application proposes lot line change between the referenced lots which will result in a more uniform sizing between the lots. The board can consider this application for approval without the need for ZBA action. We're not creating anything that's too close to the property line, are we?

MR. BABCOCK: That's correct, Mr. Chairman, I went to the workshop on this one, in Melrose Avenue which is in R-4, on the non-conforming lot of record the requirement is 5,000 square feet with water and sewer, he's not going under that, he's just giving ten foot of property from one lot to the other.

MR. PETRO: Motion for lead agency.

MR. KARNAVEZOS: So moved.

MR. BRESNAN: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare itself lead agency for the Gerbes lot line change. Is there any further discussion? If not, roll call.

ROLL CALL

MR. ARGENIO	AYE
MR. BRESNAN	AYE
MR. KARNAVEZOS	AYE
MR. LANDER	AYE
MR. PETRO	AYE

MR. PETRO I would suggest that we do not need a public

hearing for this, it's limited in nature of what we're looking at here, just don't see where it's necessary. I'll entertain a motion to waive.

MR. BRESNAN: So moved.

MR. KARNAVEZOS: Second it.

MR. PETRO: Most has been made and seconded that the New Windsor Planning Board waive the public hearing under its discretionary judgment for the Gerbes lot line change on Melrose Avenue. Is there any further discussion? If not, roll call.

ROLL CALL

MR. ARGENIO	AYE
MR. BRESNAN	AYE
MR. KARNAVEZOS	AYE
MR. LANDER	AYE
MR. PETRO	AYE

MR. PETRO: Motion for negative dec. I can't believe we're hurting the environment with moving the line by ten feet.

MR. LANDER: So moved.

MR. ARGENIO: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare a negative dec under the SEQRA process for the Gerbes lot line change. Is there any further discussion? If not, roll call.

ROLL CALL

MR. ARGENIO	AYE
MR. BRESNAN	AYE
MR. KARNAVEZOS	AYE
MR. LANDER	AYE
MR. PETRO	AYE

MR. PETRO: Motion for approval, we have highway approval today and we have fire approval today so we have both on record. Do you have anything else you want to add?

MR. BABCOCK: No, it's fine.

MR. LANDER: So moved.

MR. KARNAVEZOS: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant final approval to the Gerbes lot line change on Melrose Avenue. Is there any further discussion? If not, roll call.

ROLL CALL

MR. ARGENIO	AYE
MR. BRESNAN	AYE
MR. KARNAVEZOS	AYE
MR. LANDER	AYE
MR. PETRO	AYE



BUTLER SUBDIVISION (01-25)

Mr. Dennis Butler appeared before the board for this proposal.

MR. BUTLER: I'd like to request final approval.

MR. PETRO: Application proposes subdivision of 10.8 acre parcel into 4 single residential lots. Plan was previously reviewed at the 28 February, 2001, 27 June, 2001, 26 September, 2001 and 13 February, 2002 planning board meetings. This is an R-1 zone permitted use by law, each of the lots appears to comply with the applicable bulk tables and Mark has a few comments, final plan must have the signature and seal of a licensed land surveyor. Do we have that now?

MR. BABCOCK: No, if you, what Mark is saying that if you do move to approve that we'll need these things subject to.

MR. PETRO: Wording of note 15 should be corrected, although the intent appears acceptable, very, very minor.

MR. BABCOCK: Did the fire inspector approve this?

MR. PETRO: We have approval on 6/20/2001 and we have on sheet one, we have approved roadway name is referred to as Butler Road and on sheet 2, it's referred to as Butler Lane. Mr. Butler indicated it should be Butler Lane. Please change accordingly.

MR. BUTLER: It's on here now.

MR. BABCOCK: He's gonna have to get Bobby to mention the cul-de-sac.

MR. ARGENIO: I'm curious why are you going for the waiver, not the proper size?

MR. BUTLER: Had to do with the drainage, originally, there was a big problem with the drainage and I already spoke to him, he was supposed to give you a letter.

MR. BABCOCK: It's just an oversight, Bob approved it.

MR. PETRO: It was approved, maybe he did review and approve, I have the, just don't have the letter on

file, we'll get that.

MR. BABCOCK: We'll straighten that out.

MR. PETRO: Need a response of approval from New York State DOT.

MR. DENEGA: Mark did receive a comment from the DOT just after writing his comments just before he left he looked at it briefly and he did ask regarding one comment on here this is the sole access that DOT will allow for this property. Mark asked that a note be added indicating that no direct access to 207 will be permitted and access will only be permitted via the private road.

MR. BABCOCK: In other words, they're not going to allow you another road coming out from any of these properties, but the--

MR. PETRO: You want a note on the plan stating that?

MR. DENEGA: Yes.

MR. ARGENIO: No direct access for lot 1, is that correct?

MR. BABCOCK: That's correct.

MR. PETRO: We have fire approval on 2/6/02 and I think that's it. Do any of the members have any other questions? We have reviewed it four or five times. Do you have something?

MR. KARNAVEZOS: No.

MR. ARGENIO: No.

MR. PETRO: You can do a motion for final approval.

MR. BRESNAN: So moved.

MR. LANDER: Subject to.

MR. ARGENIO: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant final approval to the Butler minor subdivision on Route 207, subject to the

final plan must have a signature and seal of a licensed land surveyor, note number 15 should be corrected, the waiver of the cul-de-sac from the fire inspector be in the file and I believe our secretary will do that and we need a response which we received from DOT, that's not a condition, and note on the plan that no direct access from lot number one will be permitted to Route 207, other than the private road. Do you understand those?

MR. BUTLER: Yes, I do.

MR. PETRO: Roll call.

ROLL CALL

MR. ARGENIO	AYE
MR. BRESNAN	AYE
MR. KARNAVEZOS	AYE
MR. LANDER	AYE
MR. PETRO	AYE

VAN LEEUWEN - BEATTIE ROAD SUBDIVISION (02-05)

Mr. Joseph Pfau and Mr. Henry Van Leeuwen appeared before the board for this proposal.

MR. PETRO: Proposed 2 lot residential subdivision, project proposes subdivision of 59.5 acres into 2 single family lots. This plan was reviewed on a concept basis only. Property is located in an R-1 zoning district of the town which makes a permitted use by right.

MR. PFAU: Good evening. Probably familiar with this property, this property lays on the south side of Beattie Road. The proposal is total of about 59 acres proposal is to cut out a, just about a 2 acre lot, an 84,000 square foot lot on the west side of the property. And lot 2 which will be the remaining lands consists of 57 plus acres has an existing house on the property so the proposal is in essence the creation of one additional building lot.

MR. PETRO: Is this the land that was once going to be called Washington Lake II?

MR. VAN LEEUWEN: No, we checked into that, but the clay doesn't go down deep enough.

MR. PETRO: Concept plan submitted and note the following comments, this plan appears to delineate DEC wetlands which contradicts note number 9 noting the delineation should be indicated, plan should delineate Federal wetlands, bulk table should note 80,000 square foot as a net requirement, in addition to depicting on lot plat. The bulk table should reflect actual numbers for width and frontage and setbacks where applicable. Subsequent plans should include and verify locations for the existing sanitary disposal systems. Planning board may wish to assume lead agency under is SEQRA process. I'll take a motion.

MR. LANDER: So moved.

MR. BRESNAN: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare itself lead agency for the Van Leeuwen minor subdivision on Beattie Road. Is there any further comment from the board members?

If not, roll call.

ROLL CALL

MR. ARGENIO	AYE
MR. BRESNAN	AYE
MR. KARNAVEZOS	AYE
MR. LANDER	AYE
MR. PETRO	AYE

MR. PETRO: We're not going to go too far because we're going to have to do a lot of the housekeeping here.

MR. PFAU: I don't know if I should bring this up now or with Mark or Mark's representative about the wetlands, that's really the only thing I'd like to discuss the wetland, DEC wetlands, it's certainly delineated by the DEC and referenced in note number 9, where is that taken from?

MR. DENEGA: Mark's main issue there was there I believe the discrepancies in the years, you referenced kind of contradiction with another there, you have a reference date '92 for the wetlands and you have another date here referencing the year '83 and he just wanted you to set it one way or the other and show it on the plan.

MR. PFAU: The only other issue has to do with Federal wetlands. It's our opinion the Federal wetlands lies well within the DEC wetlands or the DEC buffer and whether or not we can just notate that as opposed to going out and doing a full blown Army Corps delineation on this property.

MR. PETRO: I don't care, whatever Mark says, discuss it with Mark, he says fine then you're done with that. Gentlemen, number 4, this is a one lot subdivision, it's R-1 zone, it's permitted use, I'm not in favor of having a public hearing for one additional lot. I don't see any reason for it. That's my opinion. If somebody wants to say otherwise, say now or I will take a motion to waive the public hearing.

MR. BRESNAN: So moved.

MR. KARNAVEZOS: Second it.

MR. PETRO: Motion has been made and seconded that the

New Windsor Planning Board waive the public hearing under its discretionary judgment for the Van Leeuwen minor subdivision on Beattie Road. Is there any further discussion from the board members? If not, roll call.

ROLL CALL

MR. ARGENIO	AYE
MR. BRESNAN	AYE
MR. KARNAVEZOS	AYE
MR. LANDER	AYE
MR. PETRO	AYE

MR. PETRO: We have been having public hearings, Henry, for most subdivisions, we're doing public hearings, but I think one lot is really extreme, especially on 59 acres.

MR. VAN LEEUWEN: Can we get a subject to?

MR. PETRO: No, it's too much. How can I do subject to? It's too important.

MR. VAN LEEUWEN: Okay.

MR. PETRO: I can't do that, it's too much, but you will be on the next agenda, just straighten it out with Mark and we'll see you then.

MR. VAN LEEUWEN: Thank you.

SABINI SITE PLAN (02-06)

Mr. Joseph Pfau appeared before the board for this proposal.

MR. PETRO: Proposed conversion of a house to commercial use. I believe this is over by the Minute Man, one of the houses in there.

MR. PFAU: Yeah, entrance is right across the street from the Strober King entrance.

MR. PETRO: This proposes conversion of an existing residence to office building. Plan was reviewed on a concept basis only. Property is located in the C zone. The use proposes retail so it's a permitted use by right under the zoning law. Required bulk information is correct for the zoning uses, planning board should verify that they will accept application as it is presented with pre-existing, non-conforming status without the need for a trip to ZBA. Erik, what's he saying? Why were we thinking about ZBA, change of use?

MR. BABCOCK: What happens here is that the change from a single family residence to an office area in a C zone, what happens is the requirements are minimum lot width is 40,000 square feet and all they have is 21,678, we believe that they can't change that, that's a non-conforming situation in a C zone, so we believe that those are pre-existing areas which would be lot area, lot width, rear yard and side yard and also building height.

MR. PETRO: Do any of the members have any comment against this?

MR. BABCOCK: It's existing.

MR. LANDER: You're saying well, it's an existing dwelling, was it an office building before?

MR. BABCOCK: No.

MR. LANDER: So what you're saying is that it doesn't conform to the bulk table as an office building and this lot doesn't?

MR. BABCOCK: This lot does not conform to the regulation where it is, whether this is a house or

whether it's an office, it does not conform.

MR. LANDER: But it was a house before and the zoning it was non-conforming use before that, was it always a C Zone?

MR. PETRO: No.

MR. LANDER: Or was it a residential zone turned to a C Zone then it made it non-conforming?

MR. BABCOCK: I believe that the house was built there before zoning and that when zoning came in, it was always commercial, so that's what made it non-conforming.

MR. PETRO: Even as a house, the lot size is still non-conforming, whether it's a house or not, it's still non-conforming.

MR. BABCOCK: Nothing changes.

MR. LANDER: Well, yeah, right, but making it an office you need quite a bit of parking here. What's behind it? We've got a chiropractor behind it, okay.

MR. PFAU: One other thing they made us do at the workshop it's still 2 tax lots and what we're doing is proposing to delete the lot line.

MR. PETRO: We need to say that it doesn't necessarily go to zoning board, but still has to go through planning board. Now we've got to look at the parking, even though they're non-conforming, just want to get over ZBA hurdle. Okay, do you have any other presentation?

MR. PFAU: Just that it is an existing building, we have the parking area, we conform to all the parking requirements, it's a 3 sheet set, we have a proposed landscaping plan, there's a number of existing trees on the lots, most are to remain, some to be removed and the main change that we had from the work session was we had initially utilized the existing driveway coming off Temple Hill Road and it was actually like an S turn to get into the parking area and through the work session we decided to change it so it came straight out.



MR. ARGENIO: Mark agrees with that? He feels it's better offset from the Strober King driveway?

MR. PFAU: It wasn't so much what the alignment out on the state highway as much as the geometry within the site, what was happening was we initially had it coming through here, an S turning up and in and Mark didn't seem to like that particular layout. The other thing he made us do is extend the acceleration lane, the ten foot wide acceleration lane the whole length of the property.

MR. BABCOCK: DOT will have to approve this.

MR. PFAU: Yes, I think they do. Mark said that he was sending a copy to the DOT.

MR. PETRO: What are we doing with drainage, Mr. Pfau?

MR. PFAU: Right now, everything sheet flows down towards state highway and there's no outlet. In the work session, Mark suggested that we just leave it continue to be sheet flow and only if he had suggested if the state has a problem with that will they review putting in seepage pits or something open of that nature because there's no real outlet, but it was something that he did not want to suggest. He wanted that to--

MR. PETRO: You're creating quite a bit more impervious area from when it was a house. I don't think the house had 13 or 14 parking spots. Where does it actually go once it goes down to the road?

MR. PFAU: It sits in a ditch line along the roadside, there's no outlet in either direction.

MR. LANDER: Just a little background, if you go one or two lots up from this here, State Farm has an office in there, all that's sheet flowed out to 300.

MR. BABCOCK: I think DOT's going to take a hard look at that and either approve or disapprove the way that it's coming out on the road.

MR. LANDER: There's not a lot they can do with it though. Put it in DOT's lap, that's for sure, but it runs down to the corner of Old Temple Hill Road and 300 and it sits down there but all this whole stretch here

does the same thing now, right next door to this on the north side Nichols, is this a residence or--

MR. PFAU: Yes. We propose some plantings on the landscaping.

MR. LANDER: And I know this is reaching out here but hours of operation for this, do we know yet?

MR. PFAU: We didn't really discuss it.

MR. SABINI: 9 to 9 on the average.

MR. PETRO: Jerry Sabini, he's the owner.

MR. LANDER: We're going to need something to screen the headlights on Mr. Nichol's side.

MR. PFAU: We do have screening but I'm--

MR. PETRO: Planning board may wish to authorize issuance of lead agency coordination letter since New York State DOT is an involved agency, I'll take that in the form of a motion.

MR. ARGENIO: So moved.

MR. BRESNAN: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board authorize lead agency coordination letter. Is there any further discussion? If not, roll call.

#### ROLL CALL

MR. ARGENIO	AYE
MR. BRESNAN	AYE
MR. KARNAVEZOS	AYE
MR. LANDER	AYE
MR. PETRO	AYE

MR. PETRO: We'll be having a public hearing, but I wanted to get back to the drainage because I don't want to slough that off and I don't think that the DOT has the wherewithal to come up with any plans on their own.

MR. LANDER: Seepage pits.

MR. PETRO: You know I don't like those. I don't know what else there would be. I'm trying to think.

MR. LANDER: It can't go the other way, it all pitches to the road.

MR. BABCOCK: Maybe we should take a look at this.

MR. ARGENIO: I was going to suggest that.

MR. PETRO: What did you have planned for the water?

MR. SABINI: It's a tough spot, it's a small little parking lot and really has no place to go.

MR. PFAU: It came up at the work session, we were talking about putting in, he mentioned seepage pit as an option, but not one that the town wants.

MR. ARGENIO: The whole area's all clay, I moved a hundred thousand yards of dirt at Shop Rite, which is a tenth of a mile from here, every yard was clay. So you're going to find clay there, I'm sure of it.

MR. SABINI: What do you do even if you put catch basins?

MR. ARGENIO: Mike had a good suggestion, maybe we should go there and take a look see what everybody else is doing.

MR. LANDER: I can tell you not doing anything at all, it all sheet flows out to 300.

MR. PETRO: Just dissipates over a period of time on the side of the road.

MR. KARNAVEZOS: But Mark said let the DOT see what they're going to say, if they don't allow it to sheet flow out into the road, then he's going to have to come up with something else.

MR. SABINI: What else do you come up with?

MR. KARNAVEZOS: I'm just saying then we'll have to come up with something.

MR. PETRO: Like Jerry said, it's all clay here, you're going to have a problem, you're going to have to do

something in the front to catch the water.

MR. ARGENIO: What I was getting at I don't believe a seepage pit will work in that area.

MR. PFAU: The only option I can see without doing a lot of off-site improvements along 300 to get an outlet point is to go across the street.

MR. LANDER: Other side of Strober King.

MR. ARGENIO: You won't get an open cut on 300, forget about it, it's not gonna happen.

MR. LANDER: I think we should wait and see what the state has to say, we can have him take a site visit see, where the drainage is going to go but it just--

MR. PETRO: We can do a site visit everybody their own, I've been there a hundred times, I'm not gonna set up a meeting to go.

MR. SABINI: That's why Mark wanted it straight on so when you pull out, visibility.

MR. PETRO: Mark has number of comments about the dumpster, have you read them?

MR. PFAU: He wants a detail on the enclosure and he's saying that the gates are the wrong way, but we have entrance out of the building on the side, that's the reason why we have the gate facing the way it does, it's not a dumpster enclosure, it's a garbage enclosure.

MR. PETRO: Put pails in there and you take the pails out?

MR. PFAU: Yes. He's got some additions he wants on the striping detail for the parking.

MR. PETRO: Mike, do you think it would be a good idea to schedule a public hearing? I think we should get some input from DOT. What if we don't have it the night of the public hearing, that's a very paramount issue.

MR. BABCOCK: Are you talking to the DOT or--

MR. PFAU: Mark, apparently, according to this--

MR. PETRO: Let me answer my own question. We need the coordination letter to go out, we have to make sure we're lead agency.

MR. BABCOCK: I think you're right, if somebody says where is the water going to go, we don't have an answer.

MR. PETRO: We have to give up the 30 days for response so we're going to have to wait to schedule.

MR. PFAU: Has the planning board sent the plan to DOT?

MS. MASON: I don't believe so, no.

MR. PFAU: Is that something that should be done or is that something that you want me to do?

MS. MASON: I think we'll do it.

MR. PFAU: Mark indicated at the workshop.

MR. PETRO: Let's look at the site plan one more time, anybody see anything else? It's pretty straightforward, not too much, existing shed to be removed, you're gonna make sure that the lots are combined before we can do a final approval?

MR. SABINI: Yes.

MR. PETRO: Andy has to review the paperwork and accept it.

MR. LANDER: Lighting, I see one light on the north side of the parking lot.

MR. PFAU: We, yeah, the other one's on the building.

MR. LANDER: Other one's a wall pack?

MR. PFAU: Yeah.

MR. LANDER: Okay, you're going to have it shielded so it doesn't flow over? Is there a lighting plan or no, no, just so we don't get a glaring into Mr. Nichol's property.

MR. PFAU: I'll show it.

MR. ARGENIO: What did you just say?

MR. PFAU: The illumination lines.

MR. PETRO: Okay, that's enough.

MR. PFAU: We're holding off on scheduling a public hearing?

MR. PETRO: Yes because we need to have the coordination letter sent out. We have to do that and if we schedule a public hearing in reality we have to, we haven't declare ourselves lead agency, how can I schedule a public hearing? You follow me?

MR. PFAU: I follow you.

MR. PETRO: We're not lead agency as of yet. We need a letter from DOT before the next meeting, tell us what the input us and give us a letter.

MR. PFAU: Okay.

MR. LANDER: How wide is the sidewalk right in front of, I assume there's a sidewalk in front of the parking spaces 1 through 6, how wide is that?

MR. PFAU: No, no, no, that's not a sidewalk along the building, no.

MR. LANDER: Plantings in there?

MR. PFAU: Yes, actually, I think it's just grass, sidewalk only goes from the ramp into the front of the building.

MR. PETRO: Thank you.

DISCUSSIONMRS. WILLIAMS - FORGE HILL ROAD

MRS. WILLIAMS: I'm Beverly Williams, I'm here because I own 13 acres on Moodna Creek, which is also within the historic corridor. And my real estate agent found out some information that we want to learn more about so we can give correct information to potential buyers, one is the historic corridor and what are the special requirements and conditions that any new building permits would require and two, it's also within 100 year and a 500 year flood plain, so what kind of special septic requirements would these people have to fulfill?

MR. LANDER: Do you have a map there?

MRS. WILLIAMS: I have the tax map here.

MR. BABCOCK: I can just give you a little input on this. The Town of New Windsor created the historical corridors and basically, it says in the code book that the planning board will be empowered to put special restrictions on somebody that's within this corridor. When I talked to the attorney and Myra and myself about what these restrictions would be and he, to give us an idea so we can start telling people, this is the first person that's ever asked and he said if it's a colonial atmosphere along the roadway, we would be asking somebody probably to build colonial style houses, things like that. What she needs to do is people are a little afraid to buy a piece of property from her because they're not, they're concerned about what you may tell them they have to do now as far as the septic systems, that's something that you would have to do along with your engineer, your engineer would--

MRS. WILLIAMS: So as long as it's engineered properly?

MR. BABCOCK: Yes, your engineer would have to--

MRS. WILLIAMS: I just didn't want to hear a no, that was my concern there.

MR. BABCOCK: So she's here tonight to see if there's anything other than what I'm saying as far as the colonial style houses.

MRS. WILLIAMS: Are you going to require archeological research or digs or I think that was kind of a worry when you--

MR. PETRO: She might want to check with Glen Marshall just to see.

MRS. WILLIAMS: I have a call but he hasn't called me back and I called DEC but they haven't called back.

MR. ARGENIO: On the septic issue and I don't think you misspoke, but I think you may have misunderstood that's not an affirmative response on the septic, it's a response that says you have to hire a P.E. and the P.E. will tell you if you can or cannot do it.

MRS. WILLIAMS: Right, according to the design, is that right, but it's not like you don't say no because it's in this area.

MR. ARGENIO: That's accurate.

MR. PETRO: No, it will be treated like any other area.

MRS. WILLIAMS: That's all I ask that it be treated like that.

MR. PETRO: The system would work or wouldn't work.

MR. ARGENIO: And that's by a P.E.

MRS. WILLIAMS: That would be anywhere, we just worried you might say because it's this area, it's an automatic no.

MR. KARNAVEZOS: You're worried because it's in a flood plain?

MRS. WILLIAMS: Yes, it's 100 year and a 500 year, I don't know.

MR. PETRO: Are you down where the mill was, it was a mint in the, in the 1780's.

MRS. WILLIAMS: The funny thing is I really got involved in this.

MR. ARGENIO: That would require a five year archeological dig, just so you know. I'm kidding.



MRS. WILLIAMS: The last I read on it, I have information on it actually their names were Williams who owned it that I saw, I think it's this property and they milled cotton in 1859, I believe, and that's all I have heard that was in there, but the mint, hey, I bought a \$900 metal detector and a \$300 metal detector and I didn't find one plug nickel on that property. I found iron.

MR. LANDER: That's about it and you can't even use it because--

MR. PETRO: So much junk.

MRS. WILLIAMS: No, iron, there's a lot of iron in the ground water through there from the mountains coming down.

MR. ARGENIO: Ferrous properties.

MRS. WILLIAMS: Minerals, right, so and the trees suck it in and it gets into the roots but didn't find nothing.

MR. ARGENIO: Where was the mint?

MR. PETRO: On Forge Hill Road.

MR. BABCOCK: You know where she's talking about, I believe there's not a whole lot of colonial development, if you've been down there recently, so you don't, don't know that the planning board is going to tell you that but--

MR. PETRO: I'm looking at the map, you're nowhere near it, the mint is way up here, you're not even close to what I was talking about.

MRS. WILLIAMS: You were talking about the other side of the road.

MR. PETRO: Further up by the bridge.

MRS. WILLIAMS: That was one of the very first naval shipyards in this whole country over there, that I read.

MR. PETRO: They fabricated some of the chain for the

blockade. Okay, here's your maps.

MR. KARNAVEZOS: It's right on the steep turn when you first come off 9W?

MRS. WILLIAMS: Yes, right before the mill or the paper mill.

MR. PETRO: As far as coming to the planning board, we would just get in touch with Glen Marshall and ask him if he had any input or if he had any concerns and many times, he does not, and I don't think that particular area, he would, in my opinion, but I would certainly contact him and get a letter from him somehow.

MRS. WILLIAMS: That's fair, thank you.

CORRESPONDENCEDELCONTE SUBDIVISION (01-38)

MR. PETRO: Correspondence, this is from Steve Drabick to the New Windsor Planning Board. "On behalf of applicants, Nancy Delconte and Pete Belle subdivision lands of Nancy Delconte approved by the planning board May 23, 2001, I'm requesting a 90 day extension of the granted approval, as there was some confusion at what point it was necessary to apply for such extensions. Please consider this request now so we can bring the project to its conclusion prior to the ultimate deadline of May, 2002." This is, what's this?

MR. BABCOCK: They need an extension so that they can, I guess there's a sizing of the culvert pipe they were waiting for and they just need you to close it out, they had a final approval subject to, I'm not sure, Mr. Chairman.

MR. PETRO: Subject is still going on, hasn't been stamped?

MR. BABCOCK: It hasn't been stamped, they need this extension.

MR. PETRO: So we're going to give them both 90 days, going to run from the time that it ran out, whatever that day may be. Motion to that effect?

MR. BRESNAN: So moved.

MR. ARGENIO: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant two 90 day extensions to Nancy Delconte and Pete Belle subdivision, two 90 day extensions to run from the date of their expiration.

## ROLL CALL

MR. ARGENIO	AYE
MR. BRESNAN	AYE
MR. KARNAVEZOS	AYE
MR. LANDER	AYE
MR. PETRO	AYE

MID HUDSON HOLDING COMPANY

MR. PETRO: Next item is request from Mid Hudson Holding Company. "Please consider this letter my client's request for two 90 day extensions to the subdivision approval granted by your board September 26, 2001. Shaw Engineering." Mike, any reason not to do the exactly the same thing?

MR. BABCOCK: No.

MR. PETRO: This will be good. So motion for two 90 day.

MR. BRESNAN: So moved.

MR. KARNAVEZOS: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant two 90 day extensions to Mid Hudson Holding Company for the two 90 day extensions. Is there any further discussion? If not, roll call.

## ROLL CALL

MR. ARGENIO	AYE
MR. BRESNAN	AYE
MR. KARNAVEZOS	AYE
MR. LANDER	AYE
MR. PETRO	AYE

BLOSSOM HEIGHTS/WINDSOR WOODS SUBDIVISION

Mr. Gregory Shaw appeared before the board for this proposal.

MR. PETOR: This is an add-on to the agenda. You're here on behalf of Blossom Heights Windsor Woods Subdivision?

MR. SHAW: Yes, I need you to work with me on this because we're going to go back to 1988 on this parcel of land and the question that we're going to try to come to tonight is whether this property is grandfathered with respect to the new zoning changes. Back in February, 1988, this board granted preliminary subdivision approval for Blossom Heights. It was a 42 lot subdivision Phase 1 was 11 lots and the minimum lot size at that time was 32,670 square feet and that was due to central sewers and individual wells. Subsequent to that, Phase 1 Blossom Heights was approved by this board leaving 31 lots remaining out of the 42. Again, based on central sewer and individual wells. The board expressed an opinion at that time that they didn't want to see that many lots being dependent upon individual wells, so the name of the game was to get town water up Riley Road. Subsequent to 1989 and the building of Phase 1, town water was brought onto Riley Road. In January of '94, my client at that time purchased capacity for 31 lots at 400 gallons a day, again, that 31 lots is consistent with the 42 of Blossom Heights minus the 11 that were built out. We came to this board in February of '94 with a submission based on 38 lots and town water and sewer with a minimum lot size of 21,780. Again, because we weren't relying upon individual wells, the zoning allowed us to have smaller lots. In April of 1994, the board granted preliminary subdivision approval to this map. This is a copy of it which indicated a total of 38 lots, where we were connecting to Moores Hill Road and we were subdividing this parcel into four lots. This is the outstanding parcel of Windsor Woods, now we're getting to the culmination of all of this. Six months later, I came back before this board and we eliminated the connection to Moores Hill Road and I got a new preliminary subdivision approval for 35 lots, eliminating connection to Moores Hill Road and again, that subdivision plan that we got preliminary on was this drawing and as you can see, with the one remaining lot of Windsor Woods, it was proposed to be subdivided into

4 lots. Following that, we got subdivision from the, permission from the health department for 34 lots, we got approval from the DEC for 31 lots and we ended up getting realty subdivision approval for 28 lots and that's what it is, what's in the planning board's office now which is going to be stamped and signed very shortly, we hope. So, my proposal or my request of this board is that we have a, once that set of subdivision plans gets filed, we have a lot left, that lot left represents this yellow area, it was always the intent going from 1988 to subdivide that parcel into 4 lots. It received preliminary subdivision approval three separate times, in '88, in April of '94 and in October of '94. And it's my position that those three preliminary subdivision approvals was the same as being grandfathered with respect to current zoning, so I would ask this board to please consider that request that this parcel was grandfathered and we can proceed with a 4 lot subdivision as it was intended 14 years ago.

MR. PETRO: This had never received a final stamp obviously?

MR. SHAW: We had never received a final stamp.

MR PETRO: The second one we were just looking at its not completed, has it received final approval?

MR. SHAW: Yes, this received final approval for 28 lots, the 28th lot was this entire area, all right, the plans that are hopefully going to be stamped and signed within the next week or so shows this as being one lot. The reason it was one lot is because when we went and purchased sewer capacity back in '94, we purchased it for 31 lots then when water was brought on Riley Road, we could generate more lots. We didn't have capacity for all those 38 lots, so we blocked out this area and said we'll deal with this later. We only very so much capacity, we'll get as many lots as we can for the capacity knowing full well we can buy more capacity later, come in and get this subdivided, which is where we are now. Other than the fact that the zoning changed.

MR. LANDER: Do you have the sewer capacity for those lots?

MR. SHAW: We have the sewer capacity in hand. What

happened was and it's a long story, but make a long story short, we bought capacity for 31 lots, we anticipated more lots out of this subdivision, but what happens Federal wetlands kicked in, a water quality pond kicked in, net lot area kicked in so we lost lots along the way. We have, I have a copy of the agreement if you need to see it for 31 lots, we have 28 lots, which is going to be stamped very shortly, we're asking for 3 more, we'll take one of the approved lots and generate 3 more lots so no, we don't have to buy anymore capacity.

MR. LANDER: So you don't have to go to the Town Board for that?

MR. SHAW: No.

MR. KARNAVEZOS: I just have one question. Are those, if you're going to make three lots out of the one lot, are they going to fit in whatever is R-1 or this R-1?

MR. BABCOCK: This would be R-3.

MR. KARNAVEZOS: What's the square footage?

MR. BABCOCK: 80,000.

MR. LANDER: He's saying he's grandfathered in.

MR. KARNAVEZOS: If I am not mistaken, he said that was one lot and now you want to make it three lots.

MR. SHAW: What I'm saying is once we got approval for 28 lots to subdivide the parcel for 28 lots, the plans and the mylars are in Myra's office waiting to be stamped, I believe the bond has been submitted, just waiting for some loose ends. One of those lots is this parcel right here and we're asking to subdivide that into 3 additional lots so we're going to go from one approved lot to 4 lots. My point is from 1988 to this point, we got preliminary subdivision approval on this entire piece of land indicating this as 4 lots.

MR. KARNAVEZOS: Indicate that was 4 lots, but you made it one lot.

MR. SHAW: We made it one lot and the reason that we did was because we purchased capacity for only 31 lots and at that time, we had 38 lots. So rather than going

back to the DEC, back to the Town Board, we said fine, let's subdivide 31 lots worth, all right, and we'll come back at a later date, buy capacity for the remaining, if we need it and we'll come in for a similar minor subdivision and that's where we'd be now, except for the fact that the zoning has changed preliminary subdivision approval three times and again I can document every piece of information I presented to you.

MR. ARGENIO: I'm sure of that.

MR. BABCOCK: Mr. Chairman, we had the meeting in our office about this with Greg and we suggested that he come here with this information. We talked about the uniform design in this development with the size lots throughout and then all of a sudden, there's going to be three lots that are somewhat three, maybe even four times the size of what the adjoining lots would be, as far as the looks of this development.

MR. PETRO: I guess you're waiting for me to talk, right? So I don't know, I'm not sure, I've got to think about it. You make a good point and yet I agree where Tom was going also that in reality, it's one lot and now yes, you may have been going to do something, it was preliminary, but it's still one lot and now you want to divide it up and build houses and it should come under new zoning. You make a point that smaller lots would fit and match.

MR. LANDER: But he had application before October 3.

MR. SHAW: That application is still open.

MR. BRESNAN: The only factor was the capacity, that's the thing that prevented it, he already--

MR. LANDER: I think he's grandfathered in at that point.

MR. ARGENIO: I think what was grandfathered in if I am understanding this correctly and I would like to hear from Andy on this at some point in time, I think what was grandfathered in is the approval that was pending when the zoning changed and if I am understanding Mr. Shaw correctly, that approval had a big lot in the yellow area that we're looking at so in my cursory thought is that you're trying to change the rules



because--

MR. PETRO: You're backing into it instead of driving into it.

MR. ARGENIO: I guess what I'm saying I think Tommy's heading in the right direction but I agree what you said, I think we should think about it. But I'd like to hear from Andy or Phil, maybe Phil more than Andy, cause he knows, he was germane in writing the law, not to--

MR. KRIEGER: No, I agree with you.

MR. ARGENIO: --to say anything bad about Andy, but Phil might know more about it.

MR. SHAW: Just to throw one more piece of information out, if we weren't at the 12th hour with respect to filing the subdivision plan and I know this gentleman, Mr. Silvers, just recently came before the board and got a reapproval and was given the drop dead date of May, had that been not in place, we can go back to the health department and get these lots generated and come back to this board and get a new stamped subdivision plan including these lots.

MR. ARGENIO: Greg, I don't think you can do that.

MR. BABCOCK: What he is saying is that, and this is what we said since this plan isn't stamped approved, he can modify this plan, he doesn't have final approval. If this plan was stamped approved, I don't think we'd be having this conversation. I would tell him no, it's a stamped approved plan, you can't come back, it's over.

MR. PETRO: How much area are you talking about in square footage, how many houses, three or four?

MR. BABCOCK: Three.

MR. SHAW: We have one approved lot, I want to take that and convert it into 4 approved lots, so it will be 3 additional lots.

MR. PETRO: New zoning how much would you get?

MR. SHAW: I would say you'd get one lot plus one

additional lot, I'd have to look at it.

MR. PETRO: How big are the lots you're making?

MR. SHAW: Well, these I think will be an acre, that's probably somewhere between three quarters of an acre and an acre and that's between a half and three quarters of an acre and that's probably half to 3/4 of an acre, now zoning, Mark, Mike is 40,000 square feet or 80,000 square feet for this zone?

MR. BABCOCK: What zone is this in?

MR. PETRO: R-3 he said.

MR. ARGENIO: Mike, I agree with you said for the record it is in the spirit of the whole subdivision, I think that makes sense, too.

MR. SHAW: It's R-3 so it's 80.

MR. BABCOCK: Yes.

MR. KARNAVEZOS: But is it the spirit or the law, I mean.

MR. LANDER: I think we need an interpretation of that.

MR. KARNAVEZOS: I definitely believe we need an interpretation.

MR. BRESNAN: And Phil can do that.

MR. BABCOCK: What we had said in the meeting is that if you gentlemen would have said to Mr. Shaw a couple weeks ago when he was here for the extensions and you would have said to him listen, we want you to realign the road a little bit and he went out and realigned the road and came back for an approval since he didn't get the stamp, that's what we're saying, then he would change the subdivision move and you didn't like a lot line change or lot line you said move the lot line over here or move it over there, the plan still isn't stamped.

MR. ARGENIO: The problem with your analogy is both of the two scenarios don't violate the code as it exists today, that's the problem with your analogy. I don't think it's ridiculous, but they do not violate the code

as it exists today.

MR. SHAW: But again, this board would be kind enough to give us a 6 month extension, I can come back with health department plans for these lots stamped, I would come back instead of 28 lots, 31 lots as was approved by this board on preliminary and I think you would be inclined to stamp it because the preliminary was given, okay, prior to the zoning so effectively, I'm asking the same thing.

MR. ARGENIO: That's not ridiculous either what you're saying.

MR. PETRO: Your whole argument is nothing wrong with it, you have to remember we don't want the lots, you're going to say it's not up to us, we're meeting the law but what I'm saying is why not see what it is under the new zoning, if it's a matter of one lot, just remove the lot and the project is done, it's over.

MR. SHAW: I understand what you're saying but my client has a lot of money invested, let me cry on your shoulders a little bit. When you asked my client to put in curbs and sidewalks throughout Phase 1, he did that, all right, Phase 1 has nothing to do with this project, Phase 1 is built out but he's going back and putting curbs and sidewalks as this board requested as the Town Board requested that costs money, that was based on 31 lots, not 28 lots. So I'm looking for a little compassion also.

MR. PETRO: I'm still thinking.

MR. SHAW: If you're looking for whether or not it was grandfathered having 3 preliminary subdivision approvals and having the file still open at this moment I think covers that.

MR. ARGENIO: Are you trying to land this plane tonight, Mr. Shaw?

MR. SHAW: If I'm guaranteed a safe landing, yes. If it looks like the board really needs some time--

MR. ARGENIO: I agree with Jimmy.

MR. BRESNAN: Got to run it by Crotty before we make a decision.

MR. ARGENIO: Then we can make our own decision independently.

MR. BRESNAN: He waited since 19 whatever.

MR. PETRO: '88, again.

MR. KARNAVEZOS: The only other problem I have then is why didn't you come to us with an application for those 4 lots prior to when we changed the zoning?

MR. SHAW: Because the gentleman who owns Windsor Woods was not my client at that time. When I came before the approvals, I represented Sol Silverman, he sold the project to Robert Silvers. Mr. Silvers is the one that's presently building out the roads and he wasn't my client at the time, don't forget we only had a four or five week period, it isn't as if we had six months to come in.

MR. ARGENIO: So you were just recently retained by this new individual?

MR. SHAW: Correct.

MR. PETRO: Well--

MR. LANDER: Mr. Shaw, I'm only one member, but I think you have a pretty good case here. Again, if the board's pleasure is to run it passed Mr. Crotty, I'm not one to say no, but I think you're grandfathered in but we'll leave it up to the town attorney to make that decision, I think.

MR. ARGENIO: What do you think, Jim?

MR. PETRO: I think it's either way, we can go either way. The thing that would sway me to say the hell with it and just do it is that the difference to me is one lot, frankly.

MR. ARGENIO: I would reverse that.

MR. KARNAVEZOS: It's going to be two lots.

MR. PETRO: We're not sure, one, maybe two lots, one thing he said that kind of struck me a little bit is that we did ask him to go back to Phase 1 and put all

the sidewalks in at a great expense and I think that, you know, we should at least consider that.

MR. ARGENIO: Who put the sidewalks in, is that the latter or prior owner?

MR. SHAW: No, this gentleman, it's going to be the applicant and like I said, you say it's one maybe two lots, it's only 50 to 100 grand, it's a lot of money.

MR. PETRO: We can't consider money, we're looking at the logistics and the legality of the whole thing and the right thing to do. I don't know whether Phil's going to make the right choice. To me, your argument is right either way, in other words, Phil's going to lean one way or the other, then he's going to say go back to the planning board, so I would suggest, I don't know, I just don't think that we should labor over it, just go with it and just, that's it, the whole idea of the, the whole idea of the zone change and this is for everybody, including myself, was not so much to give hardship to anybody that was doing stuff in the past or that's before the board at the time, but for the next 20 years and we're looking at subdivisions that are going to be coming in hundreds and hundreds of lots trying to nitpick two lots here, three here, that's not the purpose of the zone change. And I think that's what was swaying me the most here, I don't see the necessity of trying to steal a lot or two, whether we're right or wrong from this applicant and in my opinion, I think that it should just stand as is. I think you're grandfathered in. I would say originally, I didn't because I didn't really understand what I was saying, I gave it a lot of thought, now I do, I don't think Phil should have the final say. It's our call and I say that you should go with it. That's my opinion.

MR. SHAW: Can we poll the rest of the board?

MR. PETRO: Absolutely. Keep in mind what I said which is most important, we're not trying to nitpick a lot here and there, I'm looking at the next 5,000 lots that are coming in to eliminate the size of the lots.

MR. ARGENIO: Jim, my only real concern and as I said before to Mike, I agree with the statement it's in the spirit of the development and I think the lot or two lots in this area will be virtually invisible to the

owners of the rest of the property in the subdivision. One of the concerns I have is the precedence you're setting cause I don't want another engineer to come in here months from now and do all kinds of research and give me a history of the past ten years of what's happened with the subdivision to engage in 20 minutes of minutia, this is unique and compelling, I said Mr. Shaw's got a good point, I mean, if you're confident that that's not an issue.

MR. PETRO: We're not setting a precedence, we're the planning board, we're looking at it and I'm saying okay.

MR. ARGENIO: We're going to say yes or no, we're not setting a precedence? Another guy comes in and it's not right or we don't think it's right. That's what I don't want to trigger every engineer coming in here, give his whole life story.

MR. PETRO: Even if they do come in, you're a planning board member and you and you and you, you're going to decide that's what we're doing.

MR. ARGENIO: I'm with you on it, I think Mr. Shaw.

MR. PETRO: We're not going to pass it along, we'll make the decision, we're the planning board.

MR. ARGENIO: I'll go with you on this, I agree.

MR. BRESNAN: No, I think we should run it by Crotty.

MR. KARNAVEZOS: I do too, I'm sorry, but that's the way I feel. I mean, I understand he's accurate about the spirit and everything but I kind of got to lean towards what are Jerry said number one and number two, somebody else is gonna come to you and they're gonna say, it's gonna be very close to what this is and then you're gonna open up a can of worms.

MR. PETRO: We'll make a decision that night based on facts that we're hearing, that's why we're here, we'll make a decision and if it's the wrong one or somebody wants to take legal action, that's what happens in life.

MR. LANDER: I believe that this application here because it had preliminary never got final approval is

still an application that was before October 3 or October 4, whenever the code changed.

MR. BABCOCK: Maybe I can have one more thing and the Town Board has said that it would be up to the planning board to make the determinations now when we went to Phil's office and we talked to him about some of these things that were happening during the zoning change--

MR. ARGENIO: This one?

MR. BABCOCK: Any one in general, Phil said the planning board will make the determination whether it's a substantial application or not, is that not true Myra in other meetings, so if we sent this to Phil, he'd send it back to you.

MR. PETRO: I just said that.

MR. BABCOCK: I know you weren't in the meeting when we were there, the planning board has to make these decisions, he said that.

MR. KARNAVEZOS: Can I just add one thing? Can't we go, I know you don't want, I don't want to say you don't want to take it to the attorney, but can we get the attorney's interpretation of it and then proceed? I'd like to know how he feels about it and maybe I'm wrong, I mean, I'm the rookie here but--

MR. PETRO: I don't disagree with that except when I'm buying a coin, I don't ask my mother if I should buy it or not. And I don't see why I should have to ask Phil for a decision I have to make, it's your call, it's not his and Ronny's and Jerry's and Jim's, it's not Phil's call.

MR. KARNAVEZOS: But in this case, you know what, everybody has their own opinion, I mean, and everybody's gonna, my only concern was it wasn't done prior to the zone change, somebody just put an application in prior to this, this would be done, we'd be out of here, I'd be probably in my bed by now.

MR. SHAW: We had three preliminary approvals before the zone change and that should constitute being grandfathered, cause when people came in just with a sketch plan that grandfathered them, we have three preliminaries that should secure being grandfathered.

MR. PETRO: Just for the minutes, if someone came in a with a sketch plan, it had to be a legitimate application to be grandfathered in, I don't want to have something in the record that's not correct. All right, well, we're not getting anywhere.

MR. SHAW: I think we didn't, we have three votes for the project being grandfathered.

MR. PETRO: I don't want unhappy members, feel like we're doing something that's not a hundred percent.

MR. BRESNAN: I'm not unhappy it's my opinion, it's Tommy's opinion, let's just vote on it and you got the majority.

MR. PETRO: I understand what you're saying, just to go back one more time, I don't think it's anybody's call but ours, so to send it to somebody, we have an attorney here, what do you think?

MR. KRIEGER: I think I'm in the advice business, not the deciding business.

MR. PETRO: Give me your advice.

MR. KRIEGER: My advice is I think they have made a compelling enough case that if they were to under all the circumstances if they were to go to court, they would probably be successful, probably.

MR. PETRO: I decided that about 15 minutes ago. Okay, roll call.

ROLL CALL

MR. ARGENIO	AYE
MR. BRESNAN	AYE
MR. KARNAVEZOS	NO
MR. LANDER	AYE
MR. PETRO	AYE

MR. PETRO: Good night.

MR. SHAW: Thank you.



DISCUSSION

MR. BABCOCK: I've got a gentleman that's purchasing the building where the State Farm Insurance agent is next to Primavera's Hardware Store and he wants to do a, it's bolt on accessories for cars, he sells those and sells car phones and installs them and installs accessories for car phones, it's basically a change of use. The only thing it's in the same category in the C zone, it's a permitted use, it was a retail sales window place, blinds in the back and then an office in the front, his office area would be smaller than what's there and then there would be more retail.

MR. LANDER: Where is he going to bolt this on, in the parking lot?

MR. BABCOCK: No, there's a garage in the back, his parking is the municipal lot, so to do a parking calculation, there's no way of doing that so I'm here to ask you if you needs a planning board review or--

MR. PETRO: What are we going to review?

MR. BABCOCK: That's what I'm saying, that's why I want to ask.

MR. PETRO: He's not changing the footprint, there's no parking to look at.

MR. ARGENIO: Is John Granna leaving?

MR. BABCOCK: He's gone, he's out of the business.

MR. PETRO: Let him occupy the building and use it, there's nothing to review, I wouldn't know what to ask the man.

MR. BABCOCK: He came this afternoon, I figured I'd ask so I can give him an answer so go ahead.

MR. PETRO: What are you going to look at? Just staring at him. Do you have anything else?

MR. BABCOCK: No.

ALL FAMILY TAXI

MR. KRIEGER: All Family Taxi, do you remember him? I have talked to Mike and talked to him a number of times, basically, I have gotten no cooperation from him, they gave me a copy of the letter, you remember I said fine, if he drafts a letter, I will be happy to review it. The letter he gave me was the letter he originally wrote to get in front of the planning board. Doesn't get me anywhere, I guess he's look for me to write the letter for him.

MR. PETRO: Did you get the instructions I gave Myra yesterday, the day before?

MR. KRIEGER: Yeah, kind of.

MR. PETRO: Basically, just call him up and tell him he can't do it, period, or if he wants to, he can make an application to the zoning board but it's not a permitted use in the zone and that's it. We cannot satisfy his requirements, state's requirements or motor vehicle and not put the town at risk of having a car lot.

MR. KRIEGER: Furthermore, the planning board doesn't have the authority to allow somebody to use the property in contradiction to something, that's what he's seeking to do. Okay, with your permission then what I'd like to do is write him a letter, CC or write you a letter, CC him saying I have reviewed it and it can't be done.

MR. PETRO: Right.

MR. KRIEGER: Just exactly what you said, only do it in that form and send a CC directly to him so that that way if he has any questions which he probably will, he can call me. His question will be what does this mean.

MR. BABCOCK: If he leaves that site and we have some type of letter that makes it work for him, you're going to wind up with a used car lot there.

MR. PETRO: Opposite Park Hill Drive, forget about it. Do you have anything else? If not, I'll accept a motion to adjourn.

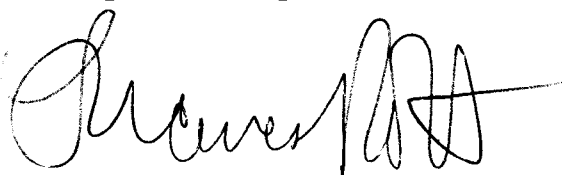
MR. BRESNAN: So moved.

MR. ARGENIO: Second it.

ROLL CALL

MR. ARGENIO	AYE
MR. BRESNAN	AYE
MR. KARNAVEZOS	AYE
MR. LANDER	AYE
MR. PETRO	AYE

Respectfully Submitted By:

A handwritten signature in cursive script, appearing to read 'Frances Roth', with a long horizontal flourish extending to the right.

Frances Roth  
Stenographer